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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE LIDODERM ANTITRUST
LITIGATION

No. C-14-md-02521 WHO

**JOINT TELEPHONIC STATUS
CONFERENCE STATEMENT**

This Document Relates to ALL CASES

Date: July 5, 2016
Time: 3:30 p.m.
Location: Courtroom 2, 17th floor, by telephone
The Hon. William H. Orrick

Pursuant to the Court's Stipulated Scheduling Order dated January 15, 2015 (ECF No. 134) and further docket entry, dated May 18, 2016, setting future monthly telephonic conferences, the parties hereby submit this Joint Telephonic Status Conference Statement for the Telephonic Case Management Conference on July 5, 2016, at 3:30 p.m. The parties have conferred and believe there are no new issues ripe for the Court to decide at the July 5, 2016 status conference. Accordingly, the parties respectfully suggest that the Court may wish to remove the July 5, 2015 conference from the calendar. If the Court, nevertheless, prefers to have the status conference, the parties will be prepared to discuss the following items.

I. CALL INFORMATION

Dial-in: 855-749-4750

Access Code: 924 936 011#

II. PENDING MATTERS

1. At-Issue Waiver Motion

In accordance with the Court's order dated April 5, 2016 (ECF No. 435), Plaintiffs filed a renewed motion for production or preclusion on May 4; Defendants filed individual oppositions on May 18; and Plaintiffs filed a consolidated reply on May 25. The Court heard oral argument on June 7, 2016. Watson submitted a supplemental demonstrative exhibit during the oral argument (ECF No. 514), to which Plaintiffs responded on June 9, 2016 (ECF No. 511). On June 9, 2016, Endo submitted a supplemental demonstrative exhibit (ECF No. 512). On June 14, 2016, Plaintiffs filed a response to Endo's supplemental demonstrative exhibit (ECF No. 517).

2. Plaintiffs' Motion Concerning Discovery of Ms. Manogue's Notes

In accordance with the Court's minute order dated May 2, 2016 (ECF No. 459), on May 19, Endo submitted Ms. Manogue's notes for in camera inspection and Plaintiffs submitted Ms. Manogue's deposition transcript, along with a brief; and on May 26, Endo submitted a brief in opposition. The parties also submitted letters to the Court on May 20 and May 23 concerning the documents Endo submitted for in camera inspection on May 19. The Court heard oral argument on June 7, 2016.

III. MOTIONS FOR CLASS CERTIFICATION

On April 27, 2016, direct purchaser plaintiffs and end-payor plaintiffs each submitted motions for class certification and supporting reports and other papers. Pursuant to the Court's order amending schedule dated May 4, 2016 (ECF No. 461), defendants shall make their opposing submission on August 19, 2016 and class plaintiffs shall submit their reply submissions on October 7, 2016. The parties will also take depositions of class experts during this period. The Court has scheduled oral argument for October 26, 2016.

IV. STATUS OF DISCOVERY

A. Defendants

1. Endo Pharmaceuticals Inc.

Endo has substantially completed its production of documents, data, and privilege logs in response to Plaintiffs' discovery requests. Endo will respond to GEHA's contention interrogatories according to the parties' agreement on the timing of the responses to those discovery requests.

2. Teikoku Defendants

Teikoku has substantially completed its production of documents, data, and privilege logs in response to Plaintiffs' discovery requests. Teikoku will respond to GEHA's contention interrogatories according to the parties' agreement on the timing of the responses to those discovery requests.

3. Actavis Defendants

Actavis has substantially completed its production of documents, data, and privilege logs in response to Plaintiffs' discovery requests, and will respond to the Retailer Plaintiffs' contention interrogatories subject to the parties' agreement on the timing of Actavis's responses to those discovery requests.

B. Plaintiffs

1. Direct Purchaser Plaintiffs

Direct Purchaser Plaintiffs have completed their production of all documents and depositions of their representatives.

1 **2. End-Payor Plaintiffs**

2 End-Payor Plaintiffs have completed their production of documents and depositions. By
3 agreement of the parties, in lieu of a deposition Defendants served, and End-Payor Plaintiffs
4 responded to, interrogatories to one of the individual End-Payor Plaintiffs.

5 **3. Government Employees Healthcare Association**

6 GEHA has completed its production of documents and is currently working on its final
7 production of claims data for Lidoderm and generic Lidoderm products.

8 **4. Individual Plaintiffs**

9 Retailer Plaintiffs have completed their document productions. Defendants have sent letters
10 raising questions following each of the Retailer Plaintiffs' depositions. Retailer Plaintiffs have
11 responded to each of those letters with additional information and, in some cases, additional
12 documents or data.

13 **C. Current Outstanding Discovery Issues**

14 **1. Watson manufacturing records.**

15 Plaintiffs have requested certain specific manufacturing documents in order to test Actavis's
16 assertions that "Actavis could not launch from a regulatory perspective until it successfully
17 completed process validation at the 1,000 gallon scale-up level, which required the production of
18 three successful, successive process validation lots;" "Actavis would not have launched generic
19 Lidoderm until it resolved significant problems and requirements concerning its commercial
20 manufacturing process;" and "The Agreement provided the opportunity for Actavis's Salt Lake City
21 facility to fix the issues with its equipment and optimize its manufacturing process to increase batch
22 yields and cycle times; absent these improvements, Actavis believes it may have needed up to 2
23 years to build the requisite launch quantities."). *See* Watson's Disclosure in Response to the Court's
24 April 5, 2016 Order Concerning Subjective Beliefs Nos. 17 and 19.

25 In response to these requests, Actavis initially produced approximately 14,000 pages on
26 April 8, 2016, and approximately 42,000 more pages on April 14, 2016.

27 On May 31, Plaintiffs informed Actavis that the batch records for the first step in making
28 generic Lidoderm patches (the glycerin and aqueous mixing) were missing, as were the process

validation reports.

On June 29, Actavis informed Plaintiffs that it expected to produce the remaining batch records and process validation reports by July 1.

2. Third Party Subpoena to PricewaterhouseCoopers

On April 11, immediately following the deposition of former Actavis employee Mr. DosSantos, GEHA served a subpoena for documents and testimony on Actavis' public auditor PricewaterhouseCoopers ("PwC"). On May 20, 2016, PwC made its first production of documents. Plaintiffs continue to meet and confer with counsel for PwC regarding further response pursuant to the subpoena.

3. Depositions of Teikoku Personnel

Plaintiffs and Teikoku have previously met and conferred concerning depositions of additional Teikoku employees whom Teikoku disclosed in its Supplemental Disclosures as having discoverable information that may be relevant to the matters set forth in its disclosure of subjective beliefs. The parties have also met and conferred regarding the scheduling of further depositions of certain Teikoku witnesses about the February 2 email and other recently-produced documents. The parties will resume their meet and confer process promptly after the Court resolves the pending dispute concerning at-issue waiver and pertaining to the production of Ms. Manogue's notes.

4. Third Party Subpoena to OptiSource LLC

In response to the subpoenas *duces tecum* and *ad testificandum* and the Court's tentative ruling on the motion to compel, OptiSource and Actavis Defendants have agreed to a limited production of documents and a deposition with a narrowed set of topics. The documents are to be produced on July 1, and the deposition is scheduled to occur on July 15.

Dated: June 30, 2016

Respectfully submitted,

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ATTESTATION STATEMENT

I, Daniel B. Asimow , am the ECF User whose identification and password are being used to
file this Joint Status Conference Statement Pursuant to Civil L.R. 5-1(i)(3), I attest under penalty of
perjury that concurrence in this filing has been obtained from all counsel.

DATED: June 30, 2016

/s/ Daniel B. Asimow
Daniel B. Asimow